

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE: TESTOSTERONE REPLACEMENT
THERAPY PRODUCTS LIABILITY
LITIGATION

Case No. 1:14-cv-1748
MDL No. 2545

Hon. Matthew F. Kennelly

THIS DOCUMENT RELATES TO ALL
CASES

**JOINT STATUS REPORT
FOR THE DECEMBER 8, 2014 CASE MANAGEMENT CONFERENCE**

The Court's October 24, 2014 case management conference and corresponding minute entry directed liaison counsel for Plaintiffs and Defendants to file this joint report regarding the status of the parties' discussions, agreements, and disagreements on the proposed agenda items for the December 8, 2014 case management conference. Since the last case management conference, the parties conferred and made progress toward agreement on the agenda items, as follows:

Status of AbbVie/Abbott document productions: Pursuant to CMO 13, AbbVie has produced nearly 500,000 pages of NDA/IND related regulatory materials, which commenced on November 14, 2014. The balance of the NDA/IND related regulatory materials will be produced on or before December 15, 2014. AbbVie is also producing certain corporate organization and retention-related documents responsive to both Plaintiffs' First Request for Production and 30(b)(6) deposition production requests. Though AbbVie's search term negotiations with Plaintiffs in this litigation is still ongoing, AbbVie expects to commence on December 12, 2014 a rolling production of certain custodial files subject to search terms that have been agreed upon in other state court litigations.

Status of non-AbbVie/Abbott defendant document productions: The five non-AbbVie defendants (Auxilium, Eli Lilly, Pfizer, Actavis, and Endo Pharmaceuticals) have also begun their rolling productions of NDA/IND related regulatory materials.

Medical Mutual of Ohio class case: The MDL PSC has filed a Third Party Payor case against most, but not all, of the MDL Defendants based on the federal RICO statute. Some but not all of the Defendants have been served.

Proposals for the State-Federal Coordination Order: Since the last case management conference, Defendants and Plaintiffs exchanged revised drafts of their orders but were not able to reach agreement. The parties filed their submissions, as well as their proposed orders, on December 3, 2014.

Status of deposition protocol: The parties have exchanged drafts of the proposed Deposition Protocol Order and have held multiple meet and confers regarding the issues in dispute. The parties have made some progress and believe further meet and confers will further narrow the issues in dispute. To the extent disputed issues remain after these further meet and confers, the parties expect to present those issues to the Court shortly after the December 8 case management conference.

Status of search term negotiations: On November 1, AbbVie made an initial search term proposal which was based on the implementation of a context-sensitive search structure that would target documents containing any one of 22 product identifiers (broadly defined) and any one of 38 terms relating to Plaintiffs' alleged adverse events.¹ On November 4, Plaintiffs made their initial search term proposal, which included 631 search terms and categories of search terms, each of which would be run independently. On November 19, the parties exchanged revised search term proposals. On November 24, the parties held a meet and confer. The parties agreed that AbbVie would craft a response to Plaintiffs' revised proposal that would broadly identify AbbVie's concerns about certain categories of terms that remain in Plaintiffs' revised proposal. AbbVie's response is forthcoming.

Master complaint/answer: In the event the Court denies part or all of Defendants' motion to dismiss, the parties intend to discuss the possibility of using a master complaint and master answer.

Status of case management order on service: The parties are close to an agreement and hope to submit a case management order to the Court by the date of the status conference.

Non-AbbVie Case Management Plan: The PSC and defendants Auxilium Pharmaceuticals, Inc. ("Auxilium"); Eli Lilly and Company and Lilly USA, Inc. (collectively "Lilly"); Actavis, Inc., Actavis Pharma, Inc., Anda, Inc., Watson Laboratories, Inc., a Nevada corporation, and Watson Laboratories, Inc., a Delaware corporation (collectively "Actavis"); Pfizer Inc and Pharmacia & Upjohn Company LLC (collectively "Pfizer") and Endo Pharmaceuticals, Inc. ("Endo") (collectively, the "Principal Non-

¹ This search term structure and set of terms were subsequently adopted by an attorney for the Cook County Plaintiffs.

AbbVie Defendants") are negotiating a case management plan governing merits discovery by Plaintiffs against the Principal Non-AbbVie Defendants. The parties are optimistic they will either reach an agreement or narrow the issues in dispute before the December 8, 2014 status conference.

Status of Court website: Counsel for the parties have conferred on the potential revisions to the Court's website. After careful review, the parties only have one requested change to the website: for PDFs of all orders to be available directly on the website, which will make it much easier for any non-participants that are tracking the lawsuit or who do not have Pacer accounts to get access to these materials.

Dated: December 4, 2014

Respectfully submitted,
WINSTON & STRAWN LLP

By: /s/ Scott P. Glauberman
James F. Hurst
Scott P. Glauberman
Nicole E. Wrigley
Bryna J. Dahlin
WINSTON & STRAWN LLP
35 West Wacker Drive
Chicago, Illinois 60601
Tel: (312) 558-5600
Fax: (312) 558-5700
sglauberman@winston.com
jhurst@winston.com
nwrigley@winston.com
bdahlin@winston.com

Attorneys for AbbVie Inc. and Abbott Laboratories

David E. Stanley (pro hac vice)
REED SMITH LLP
355 S. Grand Avenue, Suite 2900
Los Angeles, CA 90071
Tel: (213) 457-8000
dstanley@reedsmith.com

Timothy R. Carraher
REED SMITH LLP
10 South Wacker Drive, 40th Floor
Chicago, IL 60606
Tel: (312) 207-6549

Fax: (312) 207-6400
tcarraher@reedsmith.com

Attorneys for Eli Lilly and Company and Lilly USA LLC

Andrew K. Sowlow
KAYE SCHOLER LLP
250 West 55th Street
New York, NY 10022
Tel: (212) 836-7740
Fax: (212) 836-6776

Pamela J. Yates
KAYE SCHOLER LLP
1999 Avenue of the Stars, Suite 1700
Los Angeles, CA 90067
Tel: (310) 788-1278
Fax: (310) 788-1200

Attorneys for Endo Pharmaceuticals Inc.

Tinos Diamantatos
MORGAN, LEWIS & BOCKIUS
77 West Wacker Drive, 5th Floor
Chicago, IL 60601
Tel: (312) 324-1145
Fax: (312) 353-2067
tdiamantatos@morganlewis.com

James D. Pagliaro (*pro hac vice*)
Thomas J. Sullivan (*pro hac vice*)
Ezra D. Church (*pro hac vice*)
MORGAN, LEWIS & BOCKIUS LLP
1701 Market Street
Philadelphia, PA 19103
Tel: (215) 963-5000
Fax: (215) 963-5001
jpagliaro@morganlewis.com
tsullivan@morganlewis.com
echurch@morganlewis.com

Attorneys for Auxilium Pharmaceuticals Inc.

Matthew A. Holian
Jessica C. Wilson
DLA PIPER LLP (US)
33 Arch Street, 26th Floor
Boston, MA 02110

Phone: (617) 406-6000
Fax: (617) 406-6001
Email: matt.holian@dlapiper.com
Email: jessica.wilson@dlapiper.com

Attorneys for Pfizer Inc. and Pharmacia & Upjohn Company LLC

Joseph P. Thomas
Jeffrey F. Peck
K.C. Green
Jeffrey D. Geoppinger
ULMER & BERNE LLP
600 Vine Street, Suite 2800
Cincinnati, OH 45202
Phone: (513) 698-5000
Fax: (513) 698-5001
E-mail: jthomas@ulmer.com

*Attorneys for Actavis, Inc., Actavis Pharma, Inc.,
Anda, Inc., and Watson Laboratories, Inc., a Nevada
corporation*

/s/ Ronald S. Johnson, Jr.
SCHACHTER, HENDY & JOHNSON
909 Wrights Summit Parkway, Suite 210
Ft. Wright, KY 41011
Tel: (859)578-4444
Fax: (859) 578-4440
rjohnson@pschachter.com

Plaintiffs' Co-Lead Counsel

/s/ Trent B. Miracle
SIMMONS HANLY CONROY
One Court Street
Alton, IL 62002
Tel: (618)259-2222
Fax: (618) 259-2252
tmiracle@simmonsfirm.com

Plaintiffs' Co-Lead Counsel

/s/ Christopher A. Seeger
SEEGER WEISS LLP
77 Water Street
New York, NY 10005
Tel: (212)584-0700
Fax: (212) 584-0799

cseeger@seegerweiss.com

Plaintiffs' Co-Lead Counsel

CERTIFICATE OF SERVICE

I, Marissa S. Ronk, hereby certify that on December 4, 2014, the foregoing document was filed via the Court's CM/ECF system, which will automatically serve and send email notification of such filing to all registered attorneys of record.

/s/ Marissa S. Ronk